

R E M A R K S

- Claims **26-27 and 38-72** were pending in the present application
- Claims **28-37** have been previously withdrawn

Upon entry of this amendment, which is respectfully requested for the reasons set forth below:

- Claims **26-27 and 38-72** will remain pending
- Claims **26-27, 38, 40, 42 and 56** will be amended
- Claims **26-27, 38, 40, 42, 56, 70, and 72** will be the only independent claims

RCE

A Request for Continued Examination has been filed.

Section 112 Rejections

In the Office Action dated August 13, 2002, it is believed that the Examiner intended to reject claims **26, 27, 38-42, 46, 50, 52, 56, 64-66, 70 and 72** under 35 U.S.C. 112, although no express rejection under 35 U.S.C. 112 was made. Nonetheless, Applicants have addressed the Examiner's comments below.

Claims 26 and 27.

With regard to the Examiner's comments that the term "associated" is unclear in claims **26 and 27**, Applicants have amended the preambles of these claims to recite "*a game having a game outcome that depends at least in part on a predetermined point total*". This amendment is believed to address the Examiner's comments. The term "associated" also has been removed from claims **42 and 56**.

The Examiner further states that a player's hand and a dealer's hand are inferential in claims **26 and 27** because "how they can be compared is not set forth". Applicants do not understand this statement and respectfully request clarification. First, inferentially claiming relates to whether or not a claim element is positively recited or inferentially recited in a claim. The elements of claims **26 and 27** relate to "allowing", "dealing", "playing" and "comparing"; and are clearly not inferentially claimed. Second, there is no requirement that Applicants state how the player's hand or the dealer's hand is compared. Applicants are claiming that the player's hand is compared (to a specific source) and that the dealer's hand is compared (to a specific source), not how each is compared. Various examples of how the player's hand and dealer's hand may be compared are set forth in Applicants' specification. (See, for example, page 3, lines 7-15, page 7, lines 19-27 and page 10, lines 29-31). The above rationale similarly applies to the Examiner's comments that "playing a dealer's hand" is inferential.

Claim 38.

With regard to claim **38**, the Examiner states that claim **38** is unclear because "a 'count value' of what is not stated." Applicants respectfully submit that count values are described in Applicants' specification. (See, for example, page 4, lines 17-20). Accordingly the use of "count value" is not unclear.

The Examiner further states "that a player 'may receive' a card by chance is indefinite in the sense that this defines every card game." However, whether or not Applicants' claim

language defines every card game has nothing to do with making the claim language indefinite. See MPEP 2173.04, which states:

Breadth of a claim is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph.

The Examiner also states that in line 6 of claim 38, "the player" lacks antecedent basis. However, please see line 2 of claim 38 which sets forth "a player".

The Examiner states that "the request of the specific entry is disclosed as optional with respect to other known steps of the game of blackjack" in Applicants' specification; and that "this claim extends beyond the scope of the specification." Applicants do not understand this statement and respectfully request clarification. Claim 38 covers a situation where such a request is received. Whether or not it is optional for the player to request the specific entry, when a player does there can be a step of "receiving a request from the player for a specific entry". In addition, the step of "receiving a request from the player for a specific entry" is clearly supported by step 102 in FIG. 1, and the accompanying portion of the specification at page 7, lines 10 - 16, in which a request is received from a player for a specific entry in a game of chance.

The Examiner has also stated that a hand of the dealer "is inferential since steps of cards [sic] and dealing 'hands' is not recited". However, that something in a method claim is 'inferential' would not render a claim indefinite. In addition, a claim need not provide a written description of the invention.

The Examiner states that in claim 38 the predetermined count value "lacks a proper antecedent since it has only been previously functionally recited." Applicants respectfully submit that whether or not "predetermined count value" was recited functionally is irrelevant to definiteness. "Predetermined count value" is not an element of claim 38 and may be introduced inferentially.

Regarding lack of antecedent basis for "dealer score", please see line 8 of claim 38 which recites "a dealer score".

Claims 39 - 41.

Regarding the Examiner's comment that the "scope of claim 39 is unclear since many variations of 'blackjack' is [sic] known", Applicants respectfully reiterate that "breadth of a claim is not to be equated with indefiniteness". MPEP 2173.04. The above statements also apply to claims 40 and 41.

Claim 42.

Regarding claim 42, the Examiner states that "'a hand of a dealer' is inferential since no hands or dealers are cited." However, that something in a method claim is 'inferential' would not render a claim indefinite. In addition, a claim need not provide a written description of the invention.

Regarding the Examiner's comment regarding use of "twenty-one", the "breadth of a claim is not to be equated with indefiniteness". MPEP 2173.04.

Claim 46.

The Examiner states that claim 46 "is inferential since a 'chip placement area' implies a table surface which has not been set forth." While a table surface may be one type of a chip placement area, Applicants respectfully submit that there is nothing "inferential" about use of the broader term "chip placement area". Also, that something in a method claim is 'inferential' would not render a claim indefinite. In addition, a claim need not provide a written description of the invention.

Claim 47.

Regarding claim 47, the Examiner states that the "physical steps required by a score to be 'represented by a game piece' is [sic] not clear". Please see page 11, line 29 to page 12, line 10 of Applicants' specification, which describe examples of how a specific score may be represented by a game piece.

Claims 50, 52 and 64 - 66.

Regarding the use of "adjusting" or "adjustment" in claims 50, 52 and 64-66, please see page 9, line 14 – page 10, line 23 of Applicants' specification.

Claim 56.

The Examiner has stated that "the step of determining is inferential since one must infer that a hand exists and what it comprises". However, that something in a method claim is 'inferential' would not render a claim indefinite. In addition, a claim need not provide a written description of the invention.

Regarding the Examiner's comment regarding use of "twenty-one", the "breadth of a claim is not to be equated with indefiniteness". MPEP 2173.04.

Claims 70 and 72.

The use of the terms "game of blackjack" is not unclear; the "breadth of a claim is not to be equated with indefiniteness". MPEP 2173.04.

The Examiner also states that the "step of 'receiving a request' is indefinite since it is previously recited in the alternative". However, nowhere in claim 70 is this step recited in the alternate.

The Examiner asserts that "'a hand of a dealer' is inferential". However, that something in a method claim is 'inferential' would not render a claim indefinite. In addition, a claim need not provide a written description of the invention.

35 U.S.C. 102(b) Rejections**Alvarez**

Regarding the Examiner's rejection of claims 26, 27, 38 and 40 under 35 U.S.C. 102(b) as being anticipated by Alvarez (U.S. Patent No. 5,110,129), Applicants traverse this rejection.

Claim 26.

Alvarez does not disclose, teach or suggest

comparing the specific score to the dealer's hand and the predetermined point total to determine a winner of the game

For at least this reason, claim 26 is allowable over Alvarez. Additionally, in the August 13, 2002 Office Action, the Examiner states that Alvarez shows "a 'predetermined point total' of 1-40 for example, allowing a player to select a specific score on a ticket 12, 'dealing and playing a dealer's hand' by the lottery computer selecting numbers and comparing this hand to a players score to determine a winner." Applicants do not agree with this interpretation of Alvarez. However, even if such an interpretation were applied, Alvarez fails to disclose comparing a specific score to a dealer's hand and a predetermined point total.

Claim 38.

Alvarez similarly fails to disclose

determining an outcome of the game based on the predetermined count value, the specific entry, and the dealer score

as required by claim 38.

Claim 27.

With regard to claim 27, Alvarez clearly does not disclose or suggest

allowing a player to select a specific score instead of a dealer's hand

Applying the Examiner's above-mentioned interpretation of Alvarez, this would equate to allowing a lottery customer to select the outcome of a lottery, which is clearly illogical.

Claim 40.

Alvarez does not disclose or suggest

receiving a request from the player for a specific entry, in which the specific entry is in place of the at least one card

35 U.S.C. 102(b) Rejections

Keller

The Examiner also rejected claims 26, 27 and 38-72 under 35 U.S.C. 102(b) as being anticipated by Keller (U.S. Patent No. 5,816,575). Applicants traverse this rejection.

As stated in the Amendment & Response dated May 28, 2002, Keller is devoid of a hint or suggestion of allowing a player to select a specific entry instead of either a player's hand or a dealer's hand. In fact, Keller describes "the Blackjack player's first two cards, and the Dealer's hand" as "the two most important events in a 21 game." Column 9, lines 18-20.

Claims 26 and 27.

Accordingly, Keller is devoid of a hint or suggestion of the features of claim 26 generally directed to:

- *allowing a player to select a specific score instead of a player's hand*
- *comparing the specific score to the dealer's hand and the predetermined point total to determine a winner of the game*

Keller is likewise devoid of a hint or suggestion of the features of claim 27 generally directed to:

- *allowing a player to select a specific score instead of a dealer's hand*
- *comparing the player's hand to the specific score to determine a winner of the game*

In the August 13, 2002 Office Action, the Examiner states that "Keller shows a player selecting a 'specific score on the 'players [sic] betting palette' and comparing that to the dealers hand (for example dealer breaks) to determine the winner of the game." These statements do not address the limitation of claim 26 of

"allowing a player to select a specific score instead of a player's hand"

and the limitation of claim 27 of

"allowing a player to select a specific score instead of a dealer's hand".

Claim 38.

The Examiner does not address the claimed limitations of:

- *receiving a wager for a game from a player,*
 - *in which the game has a game outcome that depends at least in part on a predetermined count value, and*
 - *in which a rule of the game provides that the player may receive at least one card determined by chance*
- *receiving a request from the player for a specific entry, in which the specific entry is in place of the at least one card*

Claim 40.

The Examiner does not address the claimed limitations of:

- *receiving a wager for a game from a player,*
 - *in which the game has a game outcome that depends at least in part on a predetermined count value, and*
 - *in which a rule of the game provides that a dealer may receive at least one card determined by chance*

- *receiving a request from the player for a specific entry, in which the specific entry is in place of the at least one card*

Claim 42.

The Examiner does not address the claimed limitations of:

- *receiving a request from a player, the request indicating a specific score to be used in place of a hand of the player*
- *comparing the specific score and the hand of the dealer to determine a winner of a game of twenty-one*

Claim 56.

The Examiner does not address the claimed limitations of:

- *receiving a request from a player, the request indicating a specific score to be used in place of a hand of a dealer*
- *comparing the specific score and the hand of the player to determine a winner of a game of twenty-one*

Claims 70 and 72.

The Examiner does not address the claimed limitations of:

- *allowing a player of a game of blackjack to select one of:*
 - *receiving a hand comprising at least one card, and*
 - *requesting a specific entry*
- *receiving a request from the player, the request indicating a specific score*
- *determining an outcome of the game based on the specific score and the dealer score*

as recited in independent Claim 70; or

- *allowing a player of a game of blackjack to select one of:*
 - *allowing a dealer to receive a hand comprising at least one card, and*
 - *requesting a specific entry*
- *receiving a request from the player, the request indicating a specific score*
- *determining an outcome of the game based on the specific score and the player score*

as recited in independent Claim 72.

For at least the reasons stated above, Applicants respectfully submit that claims 26, 27, 38, 40, 42, 56, 70 and 72 are allowable over Keller. Claims 39, 41, 43-55, 57-69 and 71 depend directly or indirectly from claim 26, 27, 38, 40, 42 or 56 and are submitted as allowable for at least the same reasons.

Conclusion

It is submitted that all of the claims are now in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

Please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.


Petition for Extension of Time to Respond

Applicants hereby petition for a **one-month** extension of time with which to respond to the Office Action. Please charge \$55.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,

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Date



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A M E N D M E N T
Marked-Up Version

Please **AMEND** Claims **26, 27, 38, 40, 42 and 56** as follows:

26. (TWICE AMENDED) A method of playing a game [that is associated with] having a game outcome that depends at least in part on a predetermined point total, in which a hand of a player is compared to a hand of a dealer to determine a winner, comprising:

allowing a player to select a specific score instead of a player's hand;

dealing and playing a dealer's hand; and

comparing the specific score to the dealer's hand and the predetermined point total to determine a winner of the game.

27. (TWICE AMENDED) A method of playing a game [that is associated with] having a game outcome that depends at least in part on a predetermined point total, in which a hand of a player is compared to a hand of a dealer to determine a winner, comprising:

allowing a player to select a specific score instead of a dealer's hand;

dealing and playing a player's hand; and

comparing the player's hand to the specific score to determine a winner of the game.

38. (AMENDED) A method comprising:

receiving a wager for a game from a player,

in which the game [is associated with] has a game outcome that depends at least in part on a predetermined count value, and

in which a rule of the game provides that the player may receive at least one card determined by chance;

receiving a request from the player for a specific entry, in which the specific entry is in place of the at least one card;

determining a dealer score based on a hand of a dealer; and

determining an outcome of the game based on the predetermined count value, the specific entry, and the dealer score.

40. (AMENDED) A method comprising:
receiving a wager for a game from a player,
in which the game [is associated with] has a game outcome that depends at least in part on a predetermined count value, and
in which a rule of the game provides that a dealer may receive at least one card determined by chance;
receiving a request from the player for a specific entry, in which the specific entry is in place of the at least one card;
determining a player score based on a hand of the player; and
determining an outcome of the game based on the predetermined count value, the specific entry, and the player score.
42. (AMENDED) A method comprising:
receiving a request from a player, the request indicating a specific score to be used in place of a hand of the player;
determining a hand of a dealer; and
comparing the specific score and the hand of the dealer to determine a winner of a game of twenty-one[,
in which the specific score is associated with the player].
56. (AMENDED) A method comprising:
receiving a request from a player, the request indicating a specific score to be used in place of a hand of a dealer;
determining a hand of the player; and
comparing the specific score and the hand of the player to determine a winner of a game of twenty-one[,
in which the specific score is associated with a dealer].